

he gave Henry for it is invalid. Joseph H. Bell, one of the magistrates by whom the acknowledgment of the deed from Henry was taken, says, "Mr. Wilson, at that time, gave to Henry an obligation, to which the latter made no objection." And further, "he thinks the note was not upon stamped paper; cannot say for certainty, but thinks it was written upon a common sheet of paper." And again, upon cross-examination, he says, "the note was drawn there" (that is, at the time of the acknowledgment of the deed) "to the best of my knowledge on unstamped paper, though as to this I do not speak with absolute certainty." And the proof of the other justice is not at all in conflict with this. It may be assumed, then, I think, as more than probable, not only that no part of the purchase money had been paid, except the seventy-five dollars paid to Mr. Turley, but that the obligation given by Mr. Wilson to Henry, is an invalid security for want of a stamp. It is true, the omission to use stamped paper for the obligation in question, may be remedied in the mode pointed out in the 8th section of the act of 1844, ch. 280, by making the affidavit, and paying the sum of ten dollars, as is therein provided, but this does not obviate the objection that the transaction is characterized by a looseness, and want of care, which, looking to the great inadequacy of the price to be paid, should incline the court against giving effect to it.

It cannot, I think, be supposed that Henry knew, not only that he was parting with his property for one-fourth of its value, but that the security which he took for the payment of the purchase money was void, as it was executed and delivered to him.

The petitioner, Farquharson, prays that the deed from Henry Robinson to Mr. Wilson, may be set aside, and that the proceeds of the sale may be paid to him. That part of the prayer which asks for the vacation of the deed, cannot be granted, because, I do not feel myself at liberty in this cause, and upon these proceedings, to decide that question, and to pronounce finally against the deed, nor am I at this time prepared to say that the proceeds of the sales shall be paid to the petitioner for the purpose of investment. The petition, however, will be retained with liberty reserved to pass such future order upon it